

**IN THE UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF PENNSYLVANIA**

DR. MARK A. BARRY,

Plaintiff,

V.

DEPUY SYNTHES PRODUCTS INC.,
MEDICAL DEVICE BUSINESS
SERVICES, INC., and DEPUY SYNTHES
SALES, INC. (d/b/a DEPUY SYNTHES
SPINE),

Defendants.

Case No. 2:17-cv-03003-PD

JOINT NOTICE AND STIPULATION REGARDING DEFENDANTS' MOTIONS TO EXCLUDE CERTAIN OPINIONS AND TESTIMONY OF PLAINTIFF'S EXPERTS

IT IS HEREBY STIPULATED AND NOTICE GIVEN by and between Plaintiff Dr. Mark Barry (“Barry”) and Defendants DePuy Synthes Products, Inc., Medical Device Business Services, Inc., and DePuy Synthes Sales, Inc. (collectively, “DePuy”), by and through their respective counsel as follows:

WHEREAS, on April 22, 2020, DePuy filed two motions to exclude certain opinions and testimony of Barry's testifying expert witnesses, pursuant to Federal Rule of Evidence 702, as applied by the Supreme Court in *Daubert v. Merrell Dow Pharmaceuticals, Inc.*, 509 U.S. 579 (1993), along with supporting memoranda, declarations, and exhibits: (1) DePuy's Motion to Exclude Certain Opinions and Testimony of Dr. Walid Yassir (Doc. Nos. 133–134); and (2) DePuy's Motion to Exclude Certain Opinions and Testimony of Dr. David Neal and Kimberly Schenk (Doc. Nos. 135–137).

WHEREAS, on April 30, 2020, Barry filed Oppositions to DePuy's Motions, along with supporting memoranda and exhibits. (Doc. Nos. 140, 142, 144.)

WHEREAS, on May 6, 2020, DePuy filed Replies in supports of its Motions. (Doc. Nos. 145, 147.)

WHEREAS, on May 7, 2020 and May 13, 2020, Barry filed Sur-Replies in Opposition to DePuy's Motions, respectively. (Doc. Nos. 149, 151–152.)

WHEREAS, on October 22, 2020, the Court entered an Order denying DePuy's Motions without prejudice and referring the case to U.S. Magistrate Judge Rice for a settlement conference. (Doc. No. 155.)

WHEREAS, the settlement conference was cancelled (Doc. No. 158), and trial is scheduled to commence on September 21, 2021 (Doc. No. 164).

WHEREAS, DePuy wishes to renew its Motions to Exclude Certain Opinions and Testimony of Barry's expert witnesses.

WHEREAS, on August 13, 2021, the parties met and conferred regarding DePuy's Motions and agreed that, in the interests of time, judicial efficiency, and the parties' resources, the parties would not file additional briefing on DePuy's Motions.

NOW, THEREFORE, DePuy requests through its counsel of record that DePuy's Motions to Exclude Certain Opinions and Testimony of Barry's expert witnesses, and the parties' subsequent briefing, declarations, and exhibits relating thereto (Doc. Nos. 133–137, 140, 142, 144–145, 147, 149, and 151–152) are renewed with neither party filing additional briefing. Barry does not oppose this request.

Respectfully submitted,

Dated: August 24, 2021

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CERTIFICATE OF SERVICE

I hereby certify that on August 24, 2021, I caused a true and correct copy of the foregoing document to be served via CM/ECF filing upon counsel for all parties.

/s/ Kenneth S. Luchesi
Kenneth S. Luchesi